

REMARKS

Applicant requests the Examiner to withdraw the objection to claim 16 in view of the above corrective amendment to claim 16. Claim 25 has been similarly amended.

Applicant also respectfully requests the Examiner to reconsider and withdraw the rejection of claims 16-24 under 35 U.S.C. § 112, second paragraph, in view of the above corrective amendment to claim 16. (The word "letter" was obviously a typographical error, the word "latter" being the intended word.)

Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 16-25 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Barkmann '4040.

A primary basis for Applicant's traversal is that Barkmann does not disclose, or even suggest, **all of the limitations of independent claims 16 and 25, or of dependent claims 17-24**, as will be evident from the following remarks.

1. A special feature of the claimed device for the preparation of tobacco in a cigarette production process is the novel and unobvious separation of "distributor" – or hopper –, on one hand, from the sifter, on the other hand. The requirements placed on the efficiency of the distributor/hopper are steadily increasing. This means that a considerable throughput of tobacco is necessary in order to keep up with the high performance in the region of tobacco strand formation for the cigarettes. This also means that correspondingly large amounts of throughput tobacco must be handled.

2. The distributor/hopper of Barkmann '0404 (patented as Barkman '890, filed August 7, 2002) introduces for the first time a sifter in the embodiment of a zigzag sifter 12 as an additional

handling element for tobacco in combination with the distributor/hopper. In the Barkmann device, the sifter 12 is an integrated “flow element” for the tobacco within the distributor. The tobacco flows through a plurality of processing elements for loosening up the tobacco and executing other handling steps. The sifter 12 is one of these elements, with a plurality of elements for handling the tobacco being located upstream of the sifter 12.

The result of this is that the performance of the zigzag sifter 12 of Barkmann must be coordinated with the performance of the other elements of the distributor. For reasons of space, on one hand, and also due to the necessary integration of the sifter 12 into the operational sequence of the distributor, the sifter as integrated in the solution proposed by Barkmann does not have sufficient performance capacity. As a naturally-occurring product, the tobacco is interspersed with foreign bodies, impurities, leaf ribs, sand, pebbles, etc. These objects readily result in damage in the entrance area of the distributor, namely in the region of the processing zone located upstream of the sifter. When the distributor is operated at an overall high-performance level, the sifter is frequently inefficient in being able to process the quantities of tobacco being put through, namely in removing the aforementioned foreign objects and leaf ribs. Accordingly, the Barkmann apparatus has an unalterable dependency between the performance of the sifter and the performance of the other elements of the distributor.

3. The gist of Applicant's claimed invention is characterized by a device having the following features:

- a) *the sifter (15) is arranged as a whole upstream of the distributor, as seen in the conveying direction of the tobacco, specifically as a separate element outside of the distributor,*

- b) *the entire tobacco is first conveyed completely through the sifter, passing subsequently into the distributor so that the distributor can be fed exclusively tobacco that has been processed by sifting, and*
- c) *the sifter is designed as a cone-type sifter in a separate sifter housing (16), which ends in the region of a lock (10) of the distributor by means of a connecting line (20) arranged in an upper region of the sifter housing (16).*

4. The use of a sifter as a separate element, in addition to the distributor, results in a number of unexpected and surprising effects and advantages:

a) The performance of the sifter can be designed individually, specifically without having to take into account the space within the distributor. With respect to its plurality of different elements, the distributor is designed to loosen up the tobacco in order to provide the latter with a homogeneous structure necessary for the appropriate tobacco strand for forming the cigarettes. This process is improved if the sifter is **not** integrated in the processing operation or in the conveying stream of the tobacco.

b) By arranging a high-performance sifter outside of the distributor and requiring that the tobacco first be completely conveyed through the sifter, there is created the advantage that all elements of the distributor are impinged exclusively by completely sifted tobacco, and thus do not come into contact with any undesired components, such as sand, pebbles, etc.

c) The performance of the sifter can be measured independently of the performance of the distributor. Above all, it is possible to use a particularly efficient and high-performance cone-type sifter. Based on the experience and knowledge of the present inventors, this sifter embodiment, i.e. a cone-type sifter, represents its first use for the purpose of sifting tobacco. Prior to Applicant's invention, cone-type sifters were employed for the treatment of dry bulk

goods. The present cone-type sifter has been adapted in its design and operation for the processing of tobacco and performs efficiently.

d) The use of a sifter as a separate element allows for the retro-fitting of distributors that do not have sifters, or which have a sifter of less efficiency. Based upon the Applicant's knowledge, most of the distributors currently available in the marketplace come without sifters. Retrofitting a sifter results in a considerable improvement in tobacco quality after processing and also greater overall performance in operations.

5. Particular details in the construction of the sifter have been specially invented for its use in conjunction with the distributor. Thus, it is significant that a space is formed in the upper region of the sifter for accommodating the sifted tobacco, namely a collecting chamber 31. Here is where a reserve of sifted tobacco can be formed which can be fed through the connecting line 20 into the top region of the distributor as required. Also important is the connection of the cone-type sifter to the distributor. The connecting line 20 makes a simple connection to the distributor possible, specifically in the region of a lock 10 and flaps 33 formed in the region of an upper part of the distributor housing. In this regard, see especially claims 21, 22 and 24.

6. An important feature is the connection of the cone-type sifter. As shown in Fig. 1 and Fig. 2, the lower part of the cone-type sifter, namely chamber 27, is connected to the distributor by means of an air line 26. Provided as standard equipment within the distributor is a blower or fan 61. This generates increased air pressure. The pressurized air is conducted through the air line 26 to the lower part of the cone-type sifter (Fig. 2) without the need for a separate blower of the cone-type sifter. See claim 23.

In conclusion, then, the Examiner admits that "Barkmann does not disclose the sifter is a separate member outside the distributor".

This location of the sifter is, in fact, a critical feature of Applicant's claims 16-24 and produces the unobvious and unexpected results as described above and as described in Applicant's specification.

As for claim 25, Applicant does not find in Barkmann any teaching or suggestion of the claimed "air-permeable drum (64)"; see Applicant's Figs. 4 and 5, for example.

In summary, then, and for the reasons explained above, Applicant respectfully requests the Examiner to reconsider and withdraw the rejection of claims 16-25 under 35 U.S.C. § 103(a).

Applicant also respectfully requests the Examiner to reconsider and withdraw the objection to claim 16, and to reconsider and withdraw the rejection of claims 16-24 under 35 U.S.C. § 112, second paragraph.

Even though Applicant does not acquiesce in the obviousness-type double-patenting rejection, Applicant, in order to expedite the disposition of the application, files concurrently herewith a Terminal Disclaimer (with fee) to obviate the double-patenting rejection of claim 25.

In particular regard to the Examiner's "Response to Arguments", Applicant respectfully submits that the Examiner's following statement of obviousness is strictly **conclusory** as it merely states that Applicant's claim 16 would have been obvious for reasons disclosed only in Applicant's specification, and not in Barkmann:

However, due to lack of criticality or unexpected results, it would be obvious to one of ordinary skill in the art to design the distributor with the sifter as a separate member outside the

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 10/533,221

distributor for purposes such as ease to clean or perform
maintenance or space saving for the distributor.

If for any reason the Examiner feels that the application is not now in condition for allowance, Applicant respectfully requests the Examiner to call the undersigned attorney to discuss any unresolved issues and to expedite the disposition of the application. The above claim amendments are only editorial in nature and were not earlier made because they are in response to objections and rejections presented for the first time in the final Action.

Filed concurrently herewith is a Petition (with fee) for an Extension of Time of three months. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,

/John H. Mion/

John H. Mion
Registration No. 18,879

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
(202) 663-7901

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: April 29, 2008